

REMARKS/ARGUMENTS

This reply is in response to the Office Action dated August 8, 2007. Claims 2-14, 40-42, 44-56, 82-88 and 171-184 are pending in the application and stand reject. No amendments are presented herein. Reconsideration of the claims is respectfully requested.

Double Patenting

The obviousness-type double patenting rejections over claims 1-25, 47-60 of copending application Domine et al. (U.S. Publication No. 2004/0076846; hereafter “Domine”) and claims 1-42, 64-81 of copending application Domine et al. (U.S. Publication No. 2004/0161623; hereafter “Domine”) are held in abeyance until allowable subject matter has been identified. Both of these cases have been abandoned in favor of continuation applications.

35 U.S.C. §103(a) - Obviousness

Claims 2-14, 40-42, 44-56, 82-88, 171-184 stand rejected under 35 U.S.C. §103(a) as unpatentable over Domine et al. (WO 02/078953; hereafter “Domine”) in view of Iovine et al. (U.S. Patent No. 4,948,822; hereafter “Iovine”) or Kojima et al. (U.S. Patent No. 4,654,255; hereafter “Kojima”). The Examiner maintains the previous rejections in that it would have been obvious to simply add the amine-containing adhesive of Iovine to the adhesive of Domine for the purpose of enhancing bond strength, and water and humidity resistance; and it would have been obvious to simply add the glycidyl methacrylate-containing adhesive of Kojima to the adhesive of Domine for the purpose of enhancing inter-laminar bond strength between layers in laminates.

Applicant respectfully traverses the rejection on grounds that the Examiner has not established a *prima facie* case of obviousness. The mere fact that references *can* be combined or modified does not render the resultant combination obvious unless the prior art suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990). Furthermore, the proposed modification cannot render the prior

art unsatisfactory for its intended purpose. *In re Gordon*, 221 USPQ 1125 (Fed. Cir. 1984). If the proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *See In re Gordon*, 733 F.2d 900 (Fed. Cir. 1984); *see also* M.P.E.P. § 2143.01.

Here, the Examiner's proposed modification to Domine would render its laminates unsuitable for their intended purpose, which is to be extruded. The polymers/resins of Iovine and Kojima are not extrudable. The adhesives of Iovine are acrylic polymer emulsions that are applied to a film substrate because emulsions cannot be extruded. *See* Iovine at Abstract; col. 2, ll. 22-31; and col. 3, ll. 37-48. Similarly, the copolymers/resins described in Kojima are not coextrudable. The copolymers of Kojima "are applicable as a solution in solvent, or by a powder coating method" (*i.e.*, not coextrudable). Kojima at col. 8, ll. 37-40. Furthermore, the very fact that makes Kojima's adhesives have increased bond strength as noted by the Examiner and as stated at col. 4, lines 50-58 and reported in Table 1 of the examples in Kojima, is the very reason the adhesive cannot be extruded. Resins with such high bond strengths are very difficult, if not impossible, to co-extrude. As such, the "adhesives" of Iovine and Kojima are not extrudable and cannot be co-extruded with the polymers of Domine.

Therefore, the Examiner's proposed modification of Domine renders Domine unsatisfactory for its intended purpose, and cannot establish a *prima facie* case of obviousness. *See In re Gordon*, 733 F.2d 900 (Fed. Cir. 1984); *see also* M.P.E.P. § 2143.01. Withdrawal of the rejection and allowance of the claims is respectfully requested.

Moreover, there is no evidence of record nor from the prior art to support the Examiner's assertion that the addition of the amine-containing adhesive of Iovine to the adhesive of Domine will enhance bond strength, and water and humidity resistance. Similarly, there is no evidence of record nor in the prior art to support the Examiner's assertion that the addition of the glycidyl methacrylate-containing adhesive of Kojima to the adhesive of Domine will enhance inter-laminar bond strength between layers in

laminates. Such assertions by the Examiner are purely conjecture that the combined elements provide an obvious result. Such unsupported conclusions and impermissible hindsight may not provide a proper basis to support a rejection based on *prima facie* obviousness. Insofar as the record shows, if it is indeed true that the addition of amine-containing compounds and epoxy-containing compounds provide enhance bond strength, and water and humidity resistance, it has been gleaned from the Applicant's own specification, which is nothing more than impermissible hindsight. Therefore, the Examiner erred in rejecting the claims under 35. U.S.C. §103(a).

Furthermore, Applicant respectfully traverses the rejection on grounds that a combination the references does not teach or suggest the claimed invention. For reasons stated above, neither Iovine nor Kojima teach or suggest extrudable materials. As such, a combination of Iovine and/or Kojima with Domine does not teach or suggest a tie-layer comprising a (co)extrudable tie resin (CTR), as required in every claim. For at least this reason, the rejection should be withdrawn and the claims allowed.

Examiner's Response to Applicant's Previous Arguments

Concerning the Examiner's statement at page 6 where the Examiner states, "it is noted that since the adhesive of Iovine contains the same composition as presently claimed, it would have the same properties, i.e. extrudable," Applicant disagrees. First, the adhesive of Iovine is not the same composition as presently claimed. Iovine discloses an adhesive emulsion of C₁-C₁₂ esters. Iovine does not teach or suggest a CTR comprising a copolymer of one or more C₂-C₁₀ α -olefins and one or more ethylenically copolymerizable amine-containing monomers, as required in claims 1, 44 and 172 and those dependent therefrom. The Examiner is mistakenly making the case for the combination of Domine and Iovine having the same composition, which for one is not true for reasons stated above, and secondly, is a combination of two references, which cannot support an inherency argument. Second, Iovine unequivocally describes its adhesive as an emulsion that those skilled in the art know cannot be co-extruded. Therefore, to assert that Iovine contains "the same composition" that would "inherently

have the same properties, i.e. extrudable" is mistaken and ungrounded. Withdrawal of the rejection and allowance of the claims is respectfully requested.

CONCLUSION

Having demonstrated that the cited references fail to disclose or suggest the invention as claimed, and all other formal issues having now been fully addressed, this application is believed to be in condition for allowance. Accordingly, Applicants request early and favorable reconsideration in the form of a Notice of Allowance.

If there are any questions regarding this amendment or the application in general, a telephone call to the undersigned would be appreciated, since this should expedite the prosecution of the application for all concerned.

If necessary to affect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to affect a timely response. Please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1712 (Docket #:2003B050A).

Respectfully submitted,

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